



**Superior Court of California
County of San Francisco
Department 304**

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FROM: Judge Stuart R. Pollak

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November 23, 2001

Honorable Stuart R. Pollak
San Francisco County Superior Court
400 McAllister Street, Dept. 304
San Francisco, CA 94111-1704

Your Honor,

I am writing to express my concerns, as a citizen and a senior Information Technology industry professional, regarding the proposed settlement of the private Microsoft antitrust cases. I want to urge you in the strongest terms to disallow this proposed settlement on the grounds that it is counterproductive and will only serve to further entrench the monopoly that led to the grievance in the first place.

I believe the proposed settlement reflects a serious lack of understanding on the part of the plaintiffs' attorneys who have proposed it, as to how the IT industry works. I do not mean that as an insult; it is extremely difficult to truly understand the dynamics of this industry, and very few of the small number who do are unencumbered by any allegiance to one side or the other. I hope your honor will make every effort to consult a broad base of experts from all sides of the playing field before approving of such a "creative" solution to the case that could well influence the future of this industry.

I would like to help. If there is anything I can do to help you better understand the intricacies of the market impacted by this case, I offer my time and resources freely on a volunteer basis. I have over twenty years of professional experience in systems integration and IT management. I have carefully observed Microsoft's rise from the start. Until recently I was an IT Director at Fannie Mae, a Fortune 50 company with an annual IT budget over \$50 million. Currently I own a successful software consulting business, incorporated in Maryland.

My seven years at Fannie Mae convinced me that Microsoft's heavy-handed control over my industry is very harmful to corporate IT and to the industry in general. I could go on for many pages to explain to you, with hard evidence, why this is so. However, that has already been established in court. What this industry desperately needs is competition in the segments Microsoft controls, such as desktop operating systems. In a few small segments of the market there is already nascent competition that needs to be protected and fostered. At the very least Microsoft must be restrained from killing it.

I am quite convinced, as are many others apparently, that the proposed settlement with Microsoft, if approved by the court, would be a devastating blow to Apple Computer, the only somewhat-healthy competitor to Microsoft remaining in the personal computer operating system business. Seeing as how this is precisely the business that Microsoft has been found guilty of monopolizing, the proposed settlement is obviously counterproductive.

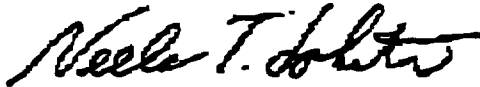
The plaintiffs' attorneys who conceived of the settlement must think they are doing a good deed for the public. They probably haven't even heard that Apple is still alive and kicking. They apparently don't realize that, out of ignorance, they've fallen victim to Microsoft's famous double-dealing. The coup that this would enable for Microsoft is one for the record books. A billion dollars is a steal for Microsoft, given the PR value and the market share in the school systems, the closely related home computer market, and the prospect of winning over young minds. The company would very likely be inclined to do this anyway, without the court's help, but for their intention to preserve a token fig leaf of decency that allows them to claim that they are not a predatory monopoly. They have more than adequate financial reserves to buy out the few percentage points of market share they do not already control. The idea of a court helping them by asking them to dump still more product into one of these small market segments where nascent competition survives, and allowing them to take credit for it as a philanthropic move which will also cost taxpayers real money, is nothing short of a travesty.

Any settlement of this case must not only be fair to the litigants, it must be seen to be fair by the public and must be seen as a punishment, if a light one, for the misdeeds that have already been established. This proposed settlement is widely viewed as a stunning victory for Microsoft, witness all the reports in the press this past Wednesday, and that alone is reason enough not to approve it. It is not a punishment. It neither benefits the plaintiffs nor penalizes Microsoft; neither does it even preserve the

weakened state of competition that already exists in the market. The current environment in which Microsoft is seen by most as getting away with murder through their own might and cleverness, and often being lionized for it, is not healthy for the Judicial System or for America, to say nothing of industry. My consulting practice depends on the continued health of Apple and my industry depends on the continued restraint of Microsoft. The proposed settlement is ominously threatening to both and should not be approved.

Please let me know what I can do to help.

Yours very truly,

A handwritten signature in cursive script, reading "Neele T. Johnston".

Neele T. Johnston, President
Intelligenesis, Inc.